

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.REVISION APPLN.NO.492 OF 2006
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Himanshu S.Sharma ..Applicant

Vs.

State of Maharashtra & Anr. ..Respondents

....
Mr.M.M.Borkar advocate for applicant
Mr.K.V.Saste A.P.P. for the State
Mr.J.A.Udaipuri & Co. for Respondent No.2-
original Complainant
...

CORAM: SMT.V.K.TAHILRAMANI, J.
DATE : MARCH 29, 2007

P.C.

1. Heard the learned advocate for the applicant, the learned A.P.P. for the State and the learned advocate for the respondent no.2-original complainant.

2. The applicant came to be prosecuted in four cases under Section 138 of Negotiable Instruments Act on complaints filed by Respondent No.2. The said cases were S.C.Nos. 1431 of 1996, 1432 of

1996, 1433 of 1996 and 1434 of 1996. In all the said cases, the applicant came to be convicted under Section 138 of the Negotiable Instruments Act. In S.C. No. 1431 of 1996, the cheque amount was Rs.10,000/-, in S.C.No.1432, the cheque amount was Rs.20,000/-, in S.C.No.1433, the cheque amount was Rs.10,000/- and in S.C.No.1434, the cheque amount was Rs.25,000/-.

3. The learned Magistrate convicted the applicant in all the four cases and sentenced him to S.I. for one month and to pay a compensation of Rs.5,000/- to the complainant i/d S.I. for 10 days in each of the four cases. Being aggrieved thereby, the applicant preferred Criminal Appeal Nos.5, 6, 7 and 8 of 2002 before the Sessions Court at Palghar. By judgment and order dated 17.11.2006, the said appeals came to be disposed of by the Sessions Judge. In Appeal No.5 of 2002, the sentence passed by the trial Court was altered by the Sessions Court to S.I. till rising of the Court. However, the applicant was directed to pay compensation of Rs.21,000/- to the complainant. In Appeal No. 6 of 2002, the sentence was altered to S.I. till rising of Court, however, the applicant

was directed to pay compensation of Rs.45,000/- . In Appeal No.7 of 2002 the sentence was altered to S.I. till rising of Court, however, the applicant was directed to pay compensation of Rs.21,000/- . In Appeal No.8 of 2002, the sentence was altered to S.I. till rising of Court, however, the applicant was directed to pay compensation of Rs.50,000/- .

4. In each of the four cases, the applicant has deposited the actual cheque amounts before this Court at the time of admission of the revisions. Thus, Rs.65,000/- has been deposited by the applicant in this Court. In addition thereto, on 4.1.2003 the applicant has deposited the amount of compensation of Rs.5,000/- in each of the four cases as directed by the learned Magistrate before the trial Court. Thus, total amount of Rs.20,000/- has been deposited by him before the trial Court.

5. The counsel for the respondent no.2-original complainant states that the said amount of Rs.65,000/- which has been deposited by the applicant before this Court, be allowed to be withdrawn by the complainant as well as the amount of Rs.20,000/- deposited by the applicant before

the trial Court and in addition thereto, if the applicant deposits amount of Rs.3,750/- in each case, totalling to Rs.15,000/- in all the four cases, the complainant is willing to compound the matters. The learned advocate for the applicant on instructions states that the complainant be permitted to withdraw the said amount of Rs.65,000/- and Rs.20,000/-. It is stated that in addition thereto, the applicant will deposit the said amount of Rs.15,000/- in this Court by 30th June, 2007 and after depositing the same, the complainant may be permitted to withdraw the said amount. In view of this statement, the learned counsel for the respondent no.2-complainant states that the matter may be compounded.

6. In view of the above facts, all these four cases are compounded and the accused is acquitted therein. Revisions are disposed of. However, it is made clear that if the entire amount of Rs.15,000/- is not deposited by the applicant by 30th June, 2007, all these revisions shall stand revived. The respondent no.2-original complainant is allowed to withdraw the amounts deposited in this Court and in the Court of Judicial Magistrate

F.C. Palghar forthwith. In case the amount of Rs.15,000/- is deposited on or before 30th June, 2007, the Respondent/Complainant is permitted to withdraw the same.

7. Revisions are disposed of in above terms.

[V.K.Tahilramani, J.]